



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Graham Smith  
Serial No. : 09/986,392  
Filed : November 8, 2001  
Title : TISSUE REPAIR SYSTEM

Art Unit : 3732  
Examiner : Unknown

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APR 06 2004  
TECHNOLOGY CENTER R3700

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION OF PHYLLIS K. KRISTAL

1. I am a registered patent attorney and an attorney of record on the above-captioned U.S. Patent Application No. 09/986,392 ("the '392 application").

2. I, along with John F. Conroy, a registered patent agent and an agent of record on the '392 application, and Peter J. Devlin, a registered patent attorney and an attorney of record on the '392 application, from May 8, 2001 through the November 8, 2001 filing date of the '392 application, worked diligently on preparation of the '392 application, as evidenced by at least the following:

a) Time records from Fish & Richardson P.C. dated from May 9, 2001 through November 7, 2001 showing time spent for work on, or related to, preparing the '392 application (Exhibit 1). The entries for timekeeper number, hours, value, and narrative have been redacted.

b) Mr. Conroy's records of telephone communications with the inventor, Graham Smith (Exhibit 2).

c) A letter from me to Mr. Smith enclosing a draft of the '392 application (Exhibit 3).

d) A letter from me to Marie Concemi, an employee of Smith & Nephew, Inc., assignee of the '392 application, enclosing the application for signature (Exhibit 4).

3. Correspondence between Smith & Nephew, Inc. and me or Mr. Conroy is further evidenced by:

a) A letter dated May 8, 2001 from Ms. Concemi, requesting me to evaluate an invention disclosure and drawings submitted by Mr. Smith for purposes of filing a patent application (Exhibit 5).

b) Drawings sent to Mr. Conroy by Mr. Smith (Exhibit 6).

5. I have reviewed all of the documents attached as exhibits to this Declaration, and to the best of my knowledge and belief, the attached documents are true and correct copies of the originals.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that those statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

April 1, 2004  
Date

Phyllis K. Kristal  
Phyllis K. Kristal  
Reg. No. 38,524